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IN RE: FOSAMAX LITIGATION

SUPERIOR COURT OF NEW JERSEY

LAW DIVISION: ATLANTIC COUNTY

CASE NO. 282

APPLIES TO ALL CASES

MASTER DOCKET: ATL-L-3632-08

CASE MANAGEMENT ORDER SETTING ROLLING DEADLINES FOR RESPONDING

TO STAYED COMPLAINTS

On March 16, 2012, the Generic Defendants filed a Motion for Judgment on the Pleadings on the issue of federal preemption pursuant to the United States Supreme Court's ruling in *PLIVA*, *Inc. v. Mensing*, 564 U.S. ____, 131 S. Ct. 2567 (2011), *reh'g denied*.

On February 6, 2012, the Court entered a Case Management Order staying Generic Defendants' obligation to answer or otherwise respond to complaints filed on or after January 20, 2012 in the above-captioned consolidated proceeding pending decision on the foregoing Motion. The Court further ordered that cases subject to the stay would not be procedurally dismissed pursuant to R. 1:13-7.

Due to changes effective on January 1, 2013 to the computer system that tracks procedural dismissals pursuant to R. 1:13-7, and in order to prevent procedural dismissals of cases with notices of dismissal issued after December 31, 2012, the Court entered a Case Management Order dated January 18, 2013 which permitted the parties in each case that was noticed for procedural dismissal to stipulate to a consent order staying Generic Defendants' obligation to answer or otherwise to respond until May 1, 2013 or further order of the Court.

The Court was subsequently able to remove the Fosamax[®] Litigation cases from the computer system that tracks procedural dismissals pursuant to R. 1:13-7 until December 31, 2013.

On December 3, 2013, the Court extended the deadline for responsive pleadings to January 15, 2014.

By teleconference on December 6, 2013, the Court granted the request of Generic Defendants to permit responsive pleadings to be filed on a rolling basis.

THEREFORE, IT IS on this day of December, 2013 ORDERED as follows

- This Case Management Order hereby amends and supersedes the December 3,
 2013 Case Management Order with respect to deadlines for responding to the stayed complaints.
- 2. Complaints filed after January 10,2014 shall not be stayed, and shall be answered in accordance with the New Jersey Rules of Court.

3. Each Generic Defendant shall respond to 15 stayed complaints by January 15, 2014.

4. Each Generic Defendant shall respond to an additional 30 complaints by the 15th of every month thereafter (i.e. by February 15, 2014, then by March 15, 2014 etc.) until such time as each Generic Defendant has responded to all the stayed complaints it has been served with.

5. Once each Generic Defendant has responded to all the remaining stayed complaints it has been served with, it shall notify the Court and all parties via letter served on Lexis Nexis File & Serve.

6. The clerk's office shall not enter procedural dismissals pursuant to R. 1:13-7 based on the absence of a responsive pleading from a Generic Defendant until that Generic Defendant has provided notice that it has responded to all stayed complaints it has been served with.

7. Once all of the Generic Defendants have responded to all of the stayed complaints they have been served with, Generic Liaison Counsel shall notify the Court and all parties via letter served on Lexis Nexis File & Serve.

Carol E. Higbee P.J. Cv.